



STATE BOARD OF EQUALIZATION

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May 16, 1990

Honorable John J. Lynch  
Los Angeles County Assessor  
Los Angeles County  
500 West Temple Street  
Los Angeles, CA 90012-2770

Attention: Mr. James B. Peatman, Director  
Ownership, Exemptions and Mapping

Dear Mr. Lynch:

This is in response to your March 14, 1990, letter wherein you inquired concerning the operation of college bookstores by for-profit entities and the availability of the college exemption for such bookstore properties under the circumstances. Generally, the agreements between the colleges and the for-profit entities have the common element of payment of a percentage of net sales for the right to operate the bookstores as independent contractors.

As you have noted, the starting point for the college exemption is Article XIII, Section 3(e) of the California Constitution, which states:

"The following are exempt from property taxation:

\* \* \*

"(e) Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education.

\* \* \*"

Revenue and Taxation Code section 203 implements the college exemption by defining an educational institution of collegiate grade for purposes of the exemption. It also contains in subdivision (d) recently enacted provisions pertaining to bookstore properties owned by colleges, unrelated business taxable income therefrom, and property tax on the portion of such properties determined to be generating such income.

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Our construction and application of the college exemption and its availability to college bookstores is, in large part, embodied in the following 1978 documents pertaining to the Stanford University Bookstore, the college exemption, and the welfare exemption:

1. February 9, 1978 letter from Tax Counsel Williams to Mr. Jack H. Friedenthal.
2. March 7, 1978 letter from Mr. Williams to Mr. Friedenthal.
3. March 21, 1978 memorandum from Mr. Williams to Mr. Douglas D. Bell.
4. October 6, 1978 memorandum from Mr. Williams to Board Members.
5. December 8, 1978, Notice of Decision.

Copies of these documents are enclosed for your information and review.

In brief, (1) the college exemption is available to college-owned and operated college bookstores: realty, improvements, fixtures and equipment;

(2) the college exemption is available to college-owned college bookstores operated by for-profit or nonprofit independent contractors: realty, improvements, fixtures, and equipment. The exemption is not available, however, to fixtures and equipment or to replacement fixtures and equipment that become the operator's fixtures and equipment under the contract, or to the operator's own fixtures and equipment.

(3) the college exemption is not available to noncollege-owned college bookstores: realty, improvements, fixtures and equipment.

Recently enacted section 203(d), of course, also must be considered in these regards. See our March 21, 1989 letter to Assessors No. 89/22, Exemption Code Sections Affected By 1988 Legislation, and December 4, 1989 Letter to Assessors No. 89/85, Unrelated Business Income in College and University Bookstores, copies also enclosed.

As to the welfare exemption, the documents indicate that college bookstores have not been exempted under the welfare exemption; routine operation of a college bookstore is not charitable. And in the matter of the Stanford University

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Bookstore, the Board concluded that the Bookstore's fixtures and inventory (inventory now exempt) did not constitute a charitable use for purposes of the exemption.

Finally, we will be responding to your March 21, 1990 letter under separate cover.

In conclusion, our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this are appreciated.

Very truly yours,



James K. McManigal, Jr.  
Tax Counsel

JKM:mw  
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Enclosures

cc: Mr. John W. Hagerty  
Mr. Verne Walton  
Mr. James Barga